

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANDREW S. BENNETT; and KRISTINA M. McDONALD,

Plaintiffs,

v.

5:20-CV-0903
(GTS/ATB)

DON BAILEY; and ROUTE 11 MOTORSPORTS,

Defendants.

APPEARANCES:

ANDREW S. BENNETT and KRISTINA M. McDONALD
Plaintiffs, *Pro Se*
1137 Roberts Hollow Road
Lowman, New York 14861

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se habeas* breach-of-contract action filed by Andrew S. Bennett and Kristina M. McDonald (“Plaintiffs”) against Don Bailey and Route 11 Motorsports (“Defendants”) pursuant to 42 U.S.C. § 1983, is United States Magistrate Judge Andrew T. Baxter’s Report-Recommendation recommending that Plaintiffs’ Complaint be dismissed without prejudice for lack of subject-matter jurisdiction pursuant to 28 U.S.C. § 1915 and that such dismissal should be without prior leave to amend. (Dkt. No. 3.) Plaintiffs have not filed an objection to the Report-Recommendation, and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter’s thorough Report-Recommendation, the Court can find no clear-error in the

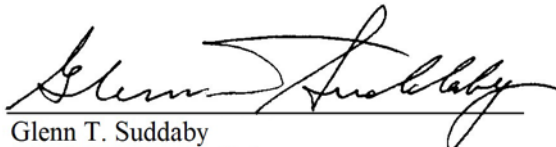
Report-Recommendation.¹ Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, and Plaintiffs' Complaint is dismissed without prejudice for lack of subject-matter jurisdiction.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 3) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiffs' Complaint (Dkt. No. 1) is **DISMISSED** without prejudice for lack of subject-matter jurisdiction.

Dated: September 28, 2020
Syracuse, New York



Glenn T. Suddaby
Chief U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).